

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THERESA VICTORY : **CIVIL ACTION**
:
v. : **NO. 18-5170**
:
BERKS COUNTY, *et al.* :

ORDER

AND NOW, this 5th day of April 2019, upon considering Defendants' Motion to dismiss (ECF Doc. No. 68) the Amended Complaint (ECF Doc. No. 47), Plaintiffs' Opposition (ECF Doc. No. 89), after evaluating the credibility of witnesses during our March 22, 2019 hearing on excusing Plaintiffs' exhaustion of administrative remedies, and for reasons in the accompanying Memorandum, it is **ORDERED** Defendants' Motion to dismiss (ECF Doc. No. 68) is **GRANTED in part and DENIED in part**:

1. We **deny** the Motion (ECF Doc. No. 68) in part challenging service and we allow Theresa Victory to proceed on her claims against:
 - a. Berks County for damages and injunctive relief under the Fourteenth Amendment and the Pennsylvania Constitution;
 - b. Commissioners Barnhardt, Leinbach, and Scott, Warden Quigley, and Deputy Warden Smith for injunctive relief under the Fourteenth Amendment and the Pennsylvania Constitution;
 - c. Sergeant Spotts, and Officers Reichart, Zerr, and Brown for damages based on First Amendment retaliation;
2. We **grant** Defendants' Motion (ECF Doc. No. 68) as to all other claims including

dismissing Samantha Huntington and Amara Sanders for failure to exhaust available administrative remedies; and,

3. Berks County, Commissioners Barnhardt, Leinbach, and Scott, Warden Quigley, Deputy Warden Smith, Sergeant Spotts, and Officers Reichart, Zerr, and Brown shall answer the Amended Complaint as to the remaining claims no later than **April 19, 2019**.



KEARNEY, J.